

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

TAMARA K. WILSON, individually and on behalf of a class,	*	Civil No. 4:10-cv-00098
	*	
	*	
Plaintiff,	*	
	*	
v.	*	
	*	
PHIL WATSON, P.C.,	*	COMPLAINT – CLASS ACTION
	*	
	*	
Defendant.	*	

INTRODUCTION

1. Plaintiff Tamara K. Wilson brings this action to secure redress against unlawful credit and collection practices engaged in by defendant Phil Watson, P.C. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”).
2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. §§1331, 1337 and 15 U.S.C. §1692k (FDCPA).
4. Venue and personal jurisdiction over defendant in this District is proper because defendant is located here and all events at issue occurred here.

PARTIES

5. Plaintiff Tamara K. Wilson is an individual who resides in Newton, Iowa.
6. Defendant Phil Watson, P.C. is a law firm organized as a professional corporation with offices at 535 E. Army Post Road, Des Moines, IA 50315.

7. Defendant Phil Watson, P.C. is regularly engaged in the collection of allegedly delinquent debts originally owed to others and uses the mails and telephone system for that purpose.

8. Defendant Phil Watson, P.C. is a “debt collector” as defined in the FDCPA.

FACTS

9. On or about August 5, 2009, defendant Phil Watson, P.C. sent plaintiff the collection letter attached as Exhibit A, seeking to collect a health care debt allegedly incurred for personal, family or household purposes.

10. Exhibit A was the first letter received by plaintiff from defendant regarding the debt described therein.

11. On information and belief, Exhibit A was the first letter sent to plaintiff by defendant regarding the debt described therein.

12. On information and belief, Exhibit A is a form document used by defendant as the initial letter it sends to a consumer.

13. Exhibit A states that the balance of the debt is “\$2,925.00 (plus accrued interest, if applicable).”

14. On information and belief, Exhibit A is regularly filled out to state the balance of the debt as a number “plus accrued interest, if applicable.”

15. The quoted statement does not disclose the amount of the debt as required by 15 U.S.C. §1692g(a).

16. Section 1692g provides:

§ 1692g. Validation of debts

(a) Notice of debt; contents. Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing--

- (1) the amount of the debt;**
- (2) the name of the creditor to whom the debt is owed;**
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;**
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and**
- (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor. . . .**

CLASS ALLEGATIONS

17. Pursuant to Fed.R.Civ.P. 23(a) and (b)(3), plaintiff brings this claim on behalf of a class, consisting of (a) all natural persons (b) to whom defendant Phil Watson, P.C. sent an initial letter (c) disclosing the amount of the debt as a number “plus accrued interest, if applicable” (d) which letter was sent during a period beginning on a date one year prior to the filing of this action and ending 20 days after the filing of this action.

18. The class is so numerous that joinder is impracticable. On information and belief, based on the use of a form letter, there are more than 50 members of the class.

19. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether Exhibit A violates the FDCPA.

20. Plaintiff's claim is typical of the claims of the class members. All are based on the same factual and legal theories.

21. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

22. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

WHEREFORE, plaintiff requests that the Court enter judgment in favor of plaintiff and the class and against defendants for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other or further relief as the Court deems proper.

Respectfully Submitted,

SHERINIAN & WALKER LAW FIRM

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